

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL)	
COUNCIL OF CARPENTERS PENSION FUND,)	
CHICAGO REGIONAL COUNCIL OF)	
CARPENTERS WELFARE FUND, and CHICAGO)	
REGIONAL COUNCIL OF CARPENTERS)	CASE NO. 08-CV-2301
APPRENTICE & TRAINEE PROGRAM FUND,)	
)	JUDGE DOW
Plaintiffs,)	
)	
v.)	
)	
ACADEMY INTERIORS, INC.)	
)	
Defendant.)	

MOTION FOR DEFAULT JUDGMENT

Plaintiffs, by its attorney, David P. Lichtman, move this Honorable Court to enter Judgment by Default according to Fed. R. Civ. P. 55 for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on April 22, 2008 and the summons and complaint was personally served on Tracy Freeman, Corporate Secretary and Administrative Assistant, on May 1, 2008 by the Process Server. **(Exhibit A, Affidavit of Service)**

2. The Defendant has failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P.

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendant's employees and to pay the ERISA contributions based on those hours.

4. The Defendant submitted the monthly contribution reports for the period August 2007 through May 2008 but did not pay the contributions. The reports show that \$161,131.23 is owed in ERISA contributions. The Defendant also failed to remit the union dues it withheld

from the employees' wages. The amount of dues withheld is \$10,692.38 for the period of December 2007 through May 2008. **(Exhibit B, Affidavit of James Rosemeyer)**

5. The Defendant owes interest on the unpaid ERISA contributions in the amount of \$1,254.65 pursuant to the Trust Agreements and 29 U.S.C. §1132(g)(2)(B). **(Exhibit B)**

6. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$10,209.76 for the period of August 2007 through May 2008 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(iii). **(Exhibit B)**

7. The Defendant has procured a bond in the amount of \$20,000, which the Plaintiffs will use to offset the amount of ERISA contributions owed by the Defendant. **(Exhibit B)**

8. The Defendant owes the sum of \$1,872.50 for necessary and reasonable attorney fees and costs of \$405.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). **(Exhibit C, Affidavit of David P. Lichtman)**

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of **\$118,519.52** and that, within ten days, the Defendant be ordered to produce reports and contributions for the period ACADEMY INTERIORS, INC..

Respectively submitted,

/s/ David P. Lichtman
Attorney for the Plaintiffs

David P. Lichtman (6290051)
Whitfield McGann & Ketterman
111 E. Wacker Drive
Suite 2600
Chicago, IL 60601
(312) 251-9700 Fax (312) 251-9701

EXHIBIT LIST

EXHIBIT A

Affidavit of Service, Special Process Server

EXHIBIT B

Sworn Declaration Pursuant To 28 U.S.C.A. § 1746
James D. Rosemeyer, Contributions Manager

EXHIBIT C

Sworn Declaration Pursuant to 28 U.S.C.A. § 1746
David P. Lichtman, Plaintiffs' Attorney

EXHIBIT A

ClientCaseID: N7654 DPL
Law Firm ID: WHITFIEL



CaseReturnDate: 5/13/08

Affidavit of **SPECIAL PROCESS SERVER**

UNITED STATES DISTRICT COURT

Case Number **08CV2301**

I, **KEITH R. BOCKELMANN**

FIRST DULY SWORN ON OATH STATES THAT I AM OVER 18 YEARS OF AGE AND NOT A PARTY TO THIS SUIT AND IS A REGISTERED EMPLOYEE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION PRIVATE DETECTIVE AGENCY #117-001292 STERN PROCESS & INVESTIGATION LLC 205 W. RANDOLPH ST. #1210 CHICAGO IL 60606

CORPORATE SERVICE

THAT I SERVED THE WITHIN **SUMMONS AND COMPLAINT**
ON THE WITHIN NAMED DEFENDANT **Academy Interiors, Inc.**
PERSON SERVED **TRACY FREEMAN, ADMINISTRATIVE ASSISTANT**
BY LEAVING A COPY OF EACH WITH THE SAID DEFENDANT ON 5/1/08

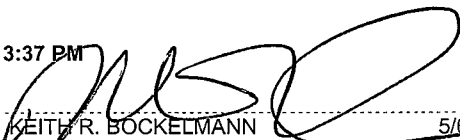
That the sex, race and approximate age of the person whom I left the **SUMMONS AND COMPLAINT**
are as follow:

Sex FEMALE Race WHITE Age 34
Height 5'5" Build MEDIUM Hair BLACK

LOCATION OF SERVICE **223 E. Depot St.**
Antioch, IL, 60002

Date Of Service 5/1/08

Time of Service 3:37 PM



KEITH R. BOCKELMANN 5/6/2008
SPECIAL PROCESS SERVER
P.E.R.C. 0129-125251

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statement are true and correct, except as to matters therein stated to be on information and belief and such matters the undersigned certifies as aforesaid that he/she verily believes same to be true.

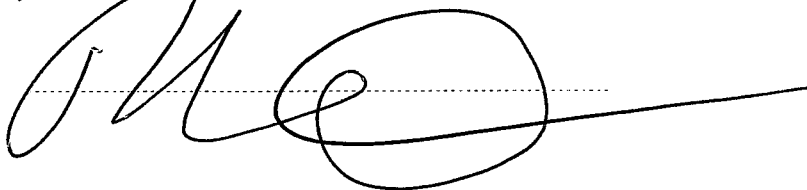


EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL
COUNCIL OF CARPENTERS PENSION FUND,
CHICAGO REGIONAL COUNCIL OF
CARPENTERS WELFARE FUND, and CHICAGO
REGIONAL COUNCIL OF CARPENTERS
APPRENTICE & TRAINEE PROGRAM FUND,

Plaintiffs,

v.

ACADEMY INTERIORS, INC.,

Defendant.

Case No. 08-CV-2301

Judge DOW

DECLARATION OF JAMES ROSEMEYER

Pursuant to 28 U.S.C. § 1746, I, James Rosemeyer, do declare under penalty of perjury that the following is true and correct:

1. I am the Manager of the Employer Contributions Department for the Chicago Regional Council of Carpenters Pension Fund and the Chicago Regional Council of Carpenters Welfare Fund (collectively, the "Trust Funds"), and in such capacity I am authorized to make this Declaration on behalf of the Trust Funds.

2. The Defendant executed an Agreement with the Chicago Regional Council of Carpenters ("Union") whereby it agreed to be bound by the provisions of a Collective Bargaining Agreement and to all Collective Bargaining Agreements subsequently negotiated.

3. Pursuant to the provisions of the Agreement and the Collective Bargaining Agreements, the Defendant agreed to be bound by the provisions of the Agreements and Declarations of Trust, which created the Plaintiffs' Trust Funds.

4. Pursuant to the provisions of the Collective Bargaining Agreements and Trust Agreements, the Defendant is required to submit monthly reports, which list the number of hours worked by its carpenter employees, and the Defendant is required to pay contributions based upon the hours listed.

5. The Defendant submitted the contribution reports for the period August 2007 through May 2008 but did not pay the contributions. The reports show that \$161,131.23 is owed in ERISA contributions. The Defendant also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$10,692.38 for the period December 2007 through May 2008.

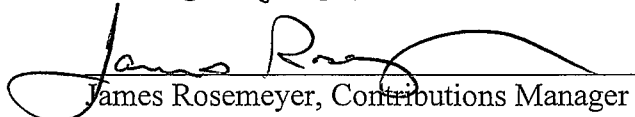
6. Because of its failure to pay contributions in a timely manner, the Trust Agreement and Collective Bargaining Agreement mandate the assessment of liquidated damages. The liquidated damages calculation was based on the rate set forth in the controlling Trust Agreements, which is 1.5% compounded per month. The amount of liquidated damages owed is \$10,209.76 for the period August 2007 through May 2008.

7. The interest calculation is based on the ERISA Section awarding such interest, 29 U.S.C. § 1132(g)(2) and because the relevant Trust Agreements do not specify the rate of interest, the calculations were done pursuant to Section 6621 of the Internal Revenue Code. The amount of interest owed is \$1,254.65.

8. The Defendant previously procured a bond in the amount of \$20,000, which the Plaintiffs will use to offset the amounts owed by the Defendant in ERISA contributions.

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Declaration is true and correct.

Date: 6-18-08


James Rosemeyer, Contributions Manager

20629 ACADEMY INTERIORS INC
23685 W BAYVIEW DR
ANTIOCH IL 60002

	FRINGES	DUES	LD'S	INTEREST
Oct-07	\$34.53	\$0.00	\$3.79	\$1.25
Nov-07	\$0	\$0.00	\$1,084.31	\$0
Dec-07	\$53,868.34	\$3,338.56	\$4,163.16	\$1,246.20
Jan-08	\$43,329.00	\$2,975.52	\$2,036.46	
Feb-08	\$18,480.00	\$1,269.07	\$1,134.67	
Mar-08	\$18,480.00	\$1,269.07	\$844.54	
Apr-08	\$22,176.00	\$1,522.89	\$669.72	
May-08	\$4,620.00	\$317.27	\$69.30	
TOTAL	\$160,987.87	\$10,692.38	\$10,005.95	\$1,247.45

50429 ACADEMY INTERIORS INC
23685 W BAYVIEW DR
ANTIOCH IL 60002

	FRINGES	DUES	LD'S	INTEREST
Aug-07	\$143.36	\$0	\$120.98	\$7.20
Sep-07	\$0	\$0	\$41.71	\$0
Sep-07	\$0	\$0	\$41.12	\$0
TOTAL	\$143.36	\$0	\$203.81	\$7.20

TOTAL BOTH ACCOUNTS \$183,288.02

BOND RECOVERY \$20,000.00

TOTAL AMOUNT DUE \$163,288.02

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL
COUNCIL OF CARPENTERS PENSION FUND,
CHICAGO REGIONAL COUNCIL OF
CARPENTERS WELFARE FUND, and CHICAGO
REGIONAL COUNCIL OF CARPENTERS
APPRENTICE & TRAINEE PROGRAM FUND,

Plaintiffs,

v.

ACADEMY INTERIORS, INC.

Defendant.

CASE NO. 08-CV-2301

JUDGE DOW

DECLARATION OF DAVID P. LICHTMAN

Pursuant to 28 U.S.C. § 1746, I, David P. Lichtman, do declare under penalty of perjury that the following is true and correct:

1. I am an associate in the law firm of Whitfield McGann & Ketterman and one of the attorneys for Plaintiffs in the above captioned matter. I am licensed to practice law in the State of Illinois and for the United States District Court for the Northern District of Illinois. I make this Declaration in support of Plaintiffs' Motion for Default Judgment.

2. I have personal knowledge of the facts stated herein and am competent to give testimony as recited herein and from my own personal knowledge.

3. The Collective Bargaining Agreement and the Trust Agreements under which this action is based provide for the payment of liquidated damages, audit fees and attorneys' fees and costs incurred for failure of a signatory contractor to pay contributions in accordance with those Agreements.

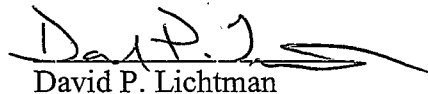
4. I, David P. Lichtman, have devoted 10.7 hours in connection with the above-captioned case at the rate of \$175.00 per hour. My total billings are \$1,872.50.

5. In addition, the filing fee was \$350.00 and the fees for service of process were an additional \$55.00. These costs total \$405.00.

6. I certify that the attached detailed attorney fees and costs totaling \$2,277.50 were necessary and reasonable.

7. Notice of this Motion for Default was given to Defendant by mailing a copy of the same to Russell T. Freeman, Registered Agent of ACADEMY INTERIORS, INC., at 223 E. Depot Street, Antioch, IL 60002.

Dated: June 18, 2008


David P. Lichtman

Attorney for the Plaintiffs
Whitfield McGann & Kettermann
111 E. Wacker Drive
Suite 2600
Chicago, IL 60601
(312) 251-9700, Fax (312) 251-9701
dlichtman@whitfield-mcgann.com
Attorney No. 6290051

5/27/2008
12:02 PM

WHITFIELD, McGANN & KETTERMAN
Slip Listing

Page 1

Selection Criteria

Slip Date: Earliest - 5/27/2008
Slip Classification: Open
Case (hand select): Include: CTF-C./N7654/20629

Rate Info - identifies rate source and level

Slip ID	Dates and Time	Posting Status	Description	ATTORNEY Activity Case Reference	Units DNB Time Est. Time Variance	Rate Rate Info Bill Status	Slip Value
356466	TIME			GPW	0.00	130.00	20.00
	4/22/2008			Levis	0.00	A@1	
	Billed	G:73383	5/1/2008	CTF-C./N7654/20629	0.00		
			Search Illinois Secretary of State database for corporate information including registered agent of the corporation for purposes of service; search for related companies; perform asset search of company and principals.		0.00		
356467	TIME			DPL	2.00	175.00	350.00
	4/22/2008			Billable	0.00	T@7	
	Billed	G:73383	5/1/2008	CTF-C./N7654/20629	0.00		
			Prepared summons, complaint, appearance forms and civil cover sheet for Trust Funds' claims and compliance matters pursuant to ERISA Sec. 1132, 1145 and THA Sec. 301.		0.00		
356465	TIME			DPL	0.50	175.00	87.50
	4/22/2008			Billable	0.00	T@7	
	Billed	G:73383	5/1/2008	CTF-C./N7654/20629	0.00		
			Review referral from Trust funds on 04/21/08; prepare file; review corporate status and registered agent information for legal process.		0.00		
356547	TIME			DPL	0.40	175.00	70.00
	4/23/2008			Billable	0.00	T@7	
	Billed	G:73383	5/1/2008	CTF-C./N7654/20629	0.00		
			Review complaint filed at the Federal Court; enter pertinent information (e.g., filing date, case number and assigned judge) into database; review judge's standing order regarding pre-trial litigation, motion practice and status hearing dates; update file/database regarding same.		0.00		
356576	TIME			DPL	1.00	175.00	175.00
	4/23/2008			Billable	0.00	T@7	
	Billed	G:73383	5/1/2008	CTF-C./N7654/20629	0.00		
			Prepare correspondence to legal process server Scott Forrest Stern & Associates, Inc.		0.00		

5/27/2008
12:02 PM

WHITFIELD, McGANN & KETTERMAN
Slip Listing

Page 2

Slip ID		ATTORNEY	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Case	Est. Time	Bill Status	
Description		Reference	Variance		
regarding service of the summons and complaint on the defendant; prepare correspondence to James Rosemeyer, ERISA Contributions Manager, Chicago District Council of Carpenters' Trust Funds regarding the filing of the complaint; enclose copy of the summons and complaint; docket follow-up dates for service.					
357033	TIME	DPL	0.25	175.00	43.75
4/29/2008		Billable	0.00	T@7	
Billed	G:73383 5/1/2008	CTF-C./N7654/20629	0.00		
Review e-mail sent by the U.S. Dist. Court for the Northern Dist. of Illinois regarding MINUTE entry before Judge Honorable Robert M. Dow, Jr: The Court's review of the complaint indicates that it is appropriate to give this ERISA case expedited treatment. The parties are authorized to proceed with all discovery. Discovery to be completed by 8/22/08. Plaintiff to make a disclosure pursuant to Fed.R.Civ.P. 26(a)(1) by 6/20/08. Parties to file a joint status report by 6/27/08. (See Judges Web Page for Status Report) Status hearing set for 7/3/08 at 9:00a.m. Plaintiff should notify all other parties of the court's order; download documents to the file folder; print document and enclose in file.			0.00		
357436	EXP	CPW	1	350.00	350.00
5/1/2008		\$DC			
WIP		CTF-C./N7654/20629			
FILING FEE (4/22/08)					
357594	TIME	DPL	0.10	175.00	17.50
5/9/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
e-mail Trust Fund Manager James T. Rosemeyer and Rich Oginski, Trust Fund Field Rep., regarding service of the complaint.			0.00		
357592	TIME	DPL	0.20	175.00	35.00
5/9/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Review e-mail sent by the U.S. Dist. Court for the Northern Dist. of Illinois regarding the proof of filing the summons returned as executed; download documents to the file folder; print document and enclose in file.			0.00		

5/27/2008
12:02 PM

WHITFIELD, McGANN & KETTERMAN
Slip Listing

Page 3

Slip ID		ATTORNEY	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Case	Est. Time	Bill Status	
Description		Reference	Variance		
357593	TIME	DPL	0.40	175.00	70.00
5/9/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Review Scott Forrest Stern & Associates, Inc.'s report on service of the summons and complaint; review process server remarks regarding details of service; review affidavit of service for legality; electronically file the proof of service with the clerk of the U.S. District Court for the Northern Dist. of Illinois; docket follow-up dates for Answer due date.			0.00		
357907	TIME	DPL	0.50	175.00	87.50
5/16/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Draft correspondence to James Rosemeyer, ERISA Contributions Manager, Chicago District Council of Carpenters' Trust Funds requesting a breakdown of all ERISA fringe benefit contributions owed and the accompanying calculation of liquidated damages and interest pursuant to the terms of the trust agreements and Internal Revenue Code.			0.00		
358273	TIME	DPL	1.00	175.00	175.00
5/22/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Prepare affidavit for Trust Fund Manager James T. Rosemeyer in support of the Trust Funds' motion for default judgment; affidavit to support claim for ERISA fringe benefit contributions, and calculation of liquidated damages and interest pursuant to the terms of the trust agreements and Internal Revenue Code; prepare correspondence to Rosemeyer regarding the affidavit and request for execution.			0.00		
358274	TIME	DPL	2.00	175.00	350.00
5/22/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Review court file to determine if Answer filed; review office file for Answer; confirm Answer due dates; review U.S. District Court web site to verify the date and time that the presiding Judge hears motions; prepare motion for default judgment pursuant to F. Rul. Civ. P. 55 for failure to answer or otherwise plead.			0.00		

5/27/2008
12:02 PM

WHITFIELD, McGANN & KETTERMAN
Slip Listing

Page 4

Slip ID		ATTORNEY	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Case	Est. Time	Bill Status	
Description		Reference	Variance		
358275	TIME	DPL	0.50	175.00	87.50
5/22/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Prepare a proposed judgment in support of the Trust Funds motion; calculate all amounts owed.			0.00		
358276	TIME	DPL	0.75	175.00	131.25
5/22/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Review file for all entries for the attorney billings and costs incurred; compare with work performed on the file; prepare attorney fee declaration / affidavit and exhibits; incorporate amounts into the motion and judgment order; prepare the document for electronic filing.			0.00		
358315	TIME	DPL	0.10	175.00	17.50
5/23/2008		Billable	0.00	T@7	
WIP		CTF-C./N7654/20629	0.00		
Receive and review document from Rich Oginski, Trust Fund Field Rep. regarding summary of contributions, liquidated damages, and interest due for the period August 2007 through December 2007.			0.00		
Grand Total		Billable	10.00		2080.50
		Unbillable	0.00		0.00
		Total	10.00		2080.50

9.7 @ 175.00 = \$1,697.5
fling = \$350.00
svc = \$55.00

STERN PROCESS & INVESTIGATION, LLC

TaxId:04-3801615

205 W. RANDOLPH ST 730
CHICAGO, IL, 60606

Phone:(312) 853 - 2150 Fax:(312) 853 - 3119

WHITFIELD, MCGANN & KETTERMAN111 E WACKER DRIVE 2600
CHICAGO, IL, 60601

Phone (312)-251-9700

Fax (312)-251-9701

Plaintiff: Trustees of the Chicago Regional Council of Carpenters Pension Fund, et al. Client N7654 Court 08CV2301
Case# DPL Case#
County: UNITED STATES DISTRICT COURT

Invoice# 184259**Server Name:**

KEITH R. BOCKELMANN

Defendant 1: Academy Interiors, Inc. CORPORATE SERVICE TRACY FREEMAN, ADMINISTRATIVE ASSISTANT**Defendant 2:**

Date of Service: 5/1/2008 **Service Time:** 3:37:00 PM **Invoice Date:** 5/6/2008 **Final Invoice Date:** 5/8/2008

Location of Service 223 E. Depot St. , Antioch, IL, 60002

Delivery Charge	Bad Address	Filing	Database Charge	Skip Trace	Rush	Investigation	Mileage	Total
\$55.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$55.00

Case Return Date: 5/13/2008 **Payment Date:** **Amount Received:** \$0.00 **Check No:**

Grand Total: \$55.00
Amount Received: \$0.00
Balance Due: \$55.00